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09/778,236	02/06/2001	Alan R. Smith	STL920000102US1	4245

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KUNZLER & ASSOCIATES
8 EAST BROADWAY
SUITE 600
SALT LAKE CITY, UT 84111

EXAMINER	
TANG, KENNETH	

ART UNIT	PAPER NUMBER
2127	

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/778,236	SMITH, ALAN R.	
	Examiner	Art Unit	
	Kenneth Tang	2127	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 September 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-48* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16,19-35,38-45 and 48* is/are rejected.

7)☒ Claim(s) *17,18,36,37,46 and 47* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *9/10/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to the Amendment on 9/7/04. Applicant's arguments were fully considered but were not found to be persuasive.

2. Claims 1-48 are presented for examination.

Claim Objections

3. Claim 16 is objected to because of the following informalities: "an High Save Area" should be "a High Save Area" (line 4). Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-47 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. In claims 1, 20, and 38, the term "actual PCB" is indefinite because it is not made explicitly clear in the claim language the difference between a "PCB" and an "actual PCB."

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-16, 19-35, 38-45, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art in the Specification (hereinafter AAP) in view of Bauer et al. (hereinafter Bauer) (US 5,758,333).

6. As to claim 1, AAP teaches a method for performing on a computer system one or more form independent application program operations on at least one IMS resource comprising:

(a) at least one Information Management System (IMS) resource exclusive of predetermined knowledge pertaining to an IMS construct form *(page 6, lines 4-10)*, and

(b) locating/utilizing and performing said one or more application program operations on said at least one IMS resource *(page 6, lines 4-10)*.

7. AAP fails to explicitly teach performing the previously stated limitations with an actual PCB (data control block) performing one or more form independent application program operations. However, Bauer teaches a data management system performing independent application program operations using pointers to data blocks *(col. 7, lines 10-20)*. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the feature of having an actual PCB (data control block) performing one or more form independent application program operations because it

offers more flexibility and program operations can perform with its own individual way of doing things. Any changes to the logical data structure will have no effect on the applications *(col. 5, lines 8-22)*.

8. As to claim 2, AAP teaches wherein said IMS resource is a database *(page 1, lines 19-21)*.

9. As to claim 3, AAP in view of Bauer fails to explicitly teach wherein said database is of a type selected from the group consisting of Data Entry Database (DEDB), Hierarchic Direct Access Method (HDAM) and Hierarchic Indexed Direct Access Method (HIDAM). However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the feature of wherein said database is of a type selected from the group consisting of DEDB, HDAM and HIDAM because it would increase the flexibility of the system by being able to choose from various different types rather than operating only on one type.

10. As to claim 4, AAP teaches wherein said application program operations include unloading said database *(page 2, lines 14-16)*.

11. As to claim 5, AAP teaches wherein said application program operations include loading said database *(page 2, lines 14-16)*.

12. As to claim 6, AAP teaches wherein said IMS construct form depends from the choice of programming language used to generate a Program Specification Block (PSB) *(page 4, lines 3-11)*.

13. As to claim 7, AAP teaches wherein said IMS construct form depends from the order or PCBs associated with said PSB *(page 4, lines 5-8)*.

14. As to claim 8, it is rejected for the same reasons as stated in the rejection of claim 3.

15. As to claim 9, it is rejected for the same reasons as stated in the rejection of claim 1. In addition, locating an (input/output) I/O PCB is done before it is utilized.

16. As to claim 10, it is rejected for the same reasons as stated in the rejection of claim 9.

17. As to claim 11, AAP teaches wherein said PSB is associated with a language selected from the group consisting of COBOL, Assembly Language, PL/I, PASCAL, and C *(page 2, 1st paragraph)*.

18. As to claim 12, AAP teaches wherein said IMS construct form additionally depends from the quantity of PCBs associated with said PSB *(page 4, lines 5-8)*.

19. As to claim 13, Bauer teaches wherein utilizing said actual PCB comprises utilizing said I/O PCB to perform checkpoint processing *(col. 7, lines 1-7, col. 5, lines 8-21 and col. 7, lines 10-20)*.

20. As to claim 14, Bauer teaches wherein step (a) comprises the steps of:

(a1) locating a first candidate PCB *(col. 7, lines 10-20)*,

(a2) determining if said first candidate PCB is said actual PCB *(col. 7, lines 10-20)*. and

(a3) if said first candidate PCB is not said actual PCB, utilizing said first candidate PCB as a pointer to locate said actual PCB *(col. 7, lines 10-20)*.

21. As to claim 15, AAP fails to explicitly teach wherein said determining step comprises verifying that a name field of said first candidate PCB consists of only printable characters. However, it would be obvious to one of ordinary skill in the art to verify that a name field of said first candidate PCB consists of only printable characters because names are consisted of only printable characters. Verifying and checking for this will decrease errors.

22. As to claim 16, Bauer teaches wherein said locating step comprises the steps of:

(a1.1) utilizing a register to access a program save area *(col. 7, lines 10-20)*,

(a1.2) utilizing an High Save Area (HAS) pointer from said program save area to access a calling program's save area *(col. 7, lines 10-20)*,

(a1.3) utilizing a saved register I from said calling program's save area to access a parameter list *(col. 7, lines 10-20)*, and

(a1.4) utilizing a parameter list entry from said parameter list to access said first candidate PCB *(col. 7, lines 10-20)*.

23. As to claim 19, it is rejected for the same reasons as stated in the rejection of claim 1. In addition, Bauer teaches ensuring the existence of LMS constructs representing said at least one IMS database without regard for construct form *(col. 5, lines 8-21 and col. 7, lines 10-20)*. AAP teaches executing/utilizing a construct form *(pages 3-4)*.

24. As to claim 20, it is rejected for the same reasons as stated in the rejection of claim 1.

25. As to claim 21, it is rejected for the same reasons as stated in the rejection of claim 2.

26. As to claim 22, it is rejected for the same reasons as stated in the rejection of claim 3.

27. As to claim 23, it is rejected for the same reasons as stated in the rejection of claim 4.

28. As to claim 24, it is rejected for the same reasons as stated in the rejection of claim 5.

29. As to claim 25, it is rejected for the same reasons as stated in the rejection of claim 6.

30. As to claim 26, it is rejected for the same reasons as stated in the rejection of claim 7.

31. As to claim 27, it is rejected for the same reasons as stated in the rejection of claim 8.

32. As to claim 28, it is rejected for the same reasons as stated in the rejection of claim 9.

33. As to claim 29, it is rejected for the same reasons as stated in the rejection of claim 10.

34. As to claim 30, it is rejected for the same reasons as stated in the rejection of claim 11.

35. As to claim 31, it is rejected for the same reasons as stated in the rejection of claim 12.

36. As to claim 32, Bauer teaches wherein said computer program second instructions use said 1/O PCB to perform message queue processing *(col. 7, lines 1-7)*.

37. As to claim 33, it is rejected for the same reasons as stated in the rejection of claim 14.

38. As to claim 34, it is rejected for the same reasons as stated in the rejection of claim 15.

39. As to claim 35, it is rejected for the same reasons as stated in the rejection of claim 16.

40. As to claim 38, it is rejected for the same reasons as stated in the rejection of claim 1.

41. As to claim 39, it is rejected for the same reasons as stated in the rejection of claim 2.

42. As to claim 40, it is rejected for the same reasons as stated in the rejection of claims 6, 7 and 12.

43. As to claim 41, it is rejected for the same reasons as stated in the rejection of claim 9.

44. As to claim 42, it is rejected for the same reasons as stated in the rejection of claim 13.

45. As to claim 43, it is rejected for the same reasons as stated in the rejection of claim 14.

46. As to claim 44, it is rejected for the same reasons as stated in the rejection of claim 15.

47. As to claim 45, it is rejected for the same reasons as stated in the rejection of claim 16.

48. As to claim 48, it is rejected for the same reasons as stated in the rejection of claim 11.

Allowable Subject Matter

49. Claims 17-18, 36-37, and 46-47 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

50. Applicant argues the 35 U.S.C. 112, 2nd paragraph rejection in that claims are "read in light of the specification."

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In addition, on page 14 of the Remarks, Applicant admits that "the use of the term "PCB" may be confusing and indefinite once subject matter of the independent claims, such as claim 1 is considered together with Claims 14 and 17. It is noted that the features upon which applicant relies (i.e., "an actual PCB" differs from a "candidate PCB" in that a "candidate PCB" may comprise a pointer to "an actual PCB") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

51. Applicant argues that Applicant's Admitted Prior Art is limited to discussion in the background section (pages 1-5) and a reference on page 16, lines 8-11. The reference on page 6, lines 4-10 does not constitute as part of the Applicant's Admitted Prior Art.

In response, the Examiner respectfully disagrees. The Applicant Admitted Prior Art also includes sections of the specification that state what is well known, existing, or conventional. On page 6, lines 5-7, it is stated how existing IMS constructs are utilized.

52. Applicant argues that Bauer doesn't teach program control blocks (PCBs) or information management system (IMS) because Bauer does not officially use those names/terms.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

53. Applicant argues that there is not a motivation to combine AAP and Bauer.

In response, the Examiner respectfully disagrees. As stated before, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the feature of having an actual PCB (data control block) performing one or more form independent application program operations because it offers more flexibility and program operations can perform with its own individual way of doing things. Any changes to the logical data structure will have no effect on the applications *(col. 5, lines 8-22)*.

54. Applicant argues that Bauer does not teach "utilizing an actual PCB".

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Eager et al. (US 5,960,200) teaches PCBs performing independent program application operations for a resource.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Tang whose telephone number is (571) 272-3772. The examiner can normally be reached on 8:30AM - 6:00PM, Every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kt
11/30/04

MENG-AL T. AN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100